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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA
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9 IN RE Mortgage Electronic Registration) MDL DOCKET NO. 09-2119-JAT
10 Systems (MERS) Litigation)
11 _____)

ORDER

12 On January 14, 2010, the Court set forth an initial briefing schedule to determine the
13 effect of the Panel's original transfer order in this docket. *See* Order on Practices and
14 Procedures (Doc. #25). Pursuant to the transfer order and several later orders, the Panel
15 separated and simultaneously remanded claims unrelated to the “formation and operation of
16 the MERS system” to their respective transferor courts. The Court's subsequent March 23,
17 2010, order specifically delineated which claims the Panel ordered transferred and which
18 claims were remanded to the transferor court.

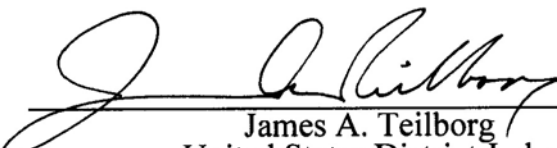
19 The Court wishes to clarify two minor points. First, although the parties sought and
20 the Court mentioned “remand” of certain claims to the transferor court, under Section
21 1407(a), remands to a transferor court can only be effected by the Judicial Panel on
22 Multidistrict Litigation. 28 U.S.C. § 1407; *see also* R.P.J.P.M.L. 7.6. Any previous
23 reference in the March 23, 2010, order or subsequent orders of “remand” of certain
24 non-MERS claims to the transferor court were intended solely to be an determination of
25 which claims are pending before this Court and which claims remain in their respective
26 transferor courts, pursuant to the Panel’s transfer orders.

27 Second, the Court's March 23, 2010, order suggested that if any claims before the
28 transferor court (i.e., claims not involving the formation and operation of MERS) evolve into

1 claims concerning the formation and operation of MERS, then Defendant may move before
2 the transferor court to transfer such claims to this Court for inclusion in the MDL
3 proceedings. In such an event, however, the proper procedure would be to notify the Panel
4 of the pendency of any such a claim. The Panel could then issue a conditional transfer order
5 covering that claim, or the party seeking transfer of such a claim could file a motion before
6 the Panel to transfer the claim to this MDL. Under Section 1407, the transferor judge cannot,
7 on his or her own initiative, transfer claims to an MDL proceeding.

8 **IT IS ORDERED** that the Clerk of the Court shall file a copy of this Order in the
9 transferor court for each member case addressed by the March 23, 2010, order.

10 DATED this 20th day of April, 2010.

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14 James A. Teilborg
United States District Judge
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